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14 *Attorneys for the Official Committee of Equity Security
 Holders of USA Capital Diversified Trust Deed Fund, LLC*

15 **UNITED STATES BANKRUPTCY COURT**

16 **DISTRICT OF NEVADA**

18 In re: USA COMMERCIAL MORTGAGE COMPANY, Debtor.	Case No. BK-S-06-10725 LBR
19 In re: USA CAPITAL REALTY ADVISORS, LLC, Debtor.	Case No. BK-S-06-10726 LBR
20 In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC, Debtor.	Case No. BK-S-06-10727 LBR
21 In re: USA CAPITAL FIRST TRUST DEED FUND, LLC, Debtor.	Case No. BK-S-06-10728 LBR
22	Case No. BK-S-06-10729 LBR
23	Chapter 11
24	Jointly Administered Under Case No. BK-S-06-10725-LBR
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1 In re:
 2 USA SECURITIES, LLC,

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 7 Debtor.

**AMENDED JOINT EX PARTE
 APPLICATION FOR ORDER
 REQUIRING CUSTODIAN OF
 DOCUMENTS FOR BYSYNTERGY,
 LLC, TO APPEAR FOR
 EXAMINATION PURSUANT TO
 FEDERAL RULE OF BANKRUPTCY
 PROCEDURE 2004**

8 [No hearing required]

9 Affects:

10 10
 11 All Debtors
 12 USA Commercial Mortgage Company
 13 USA Securities, LLC
 14 USA Capital Realty Advisors, LLC
 15 USA Capital Diversified Trust Deed Fund, LLC
 16 USA First Trust Deed Fund, LLC

17 Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (hereinafter, the
 18 “Bankruptcy Rules”), USA Capital Diversified Trust Deed Fund, LLC (hereinafter,
 19 “Diversified”), and the Official Committee of Equity Security Holders of USA Capital
 20 Diversified Trust Deed Fund, LLC (hereafter, the “Diversified Committee”), by and through
 21 their respective counsel noted above,¹ hereby apply to this Court for an order setting the
 22 examination of the Custodian of Documents for BySynergy, LLC, an Arizona limited liability
 23 company, under oath, under Bankruptcy Rule 2004. This Application is explained in the
 24 following Memorandum.

25
 26 **MEMORANDUM**

27 Diversified and the Diversified Committee are seeking information from the Custodian of
 28 Documents for BySynergy, LLC, an Arizona limited liability company, concerning documents
 29 related to the obligation owed to Diversified and others by BySynergy, LLC, collateral securing
 30 that obligation, the status of development of the collateral, and other liens on the collateral.

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1 Diversified and the Diversified Committee seek this information to assist in the collection of the
 2 assets and investigation of the liabilities of Diversified.

3 The requested discovery from the Custodian of Documents for BySynergy, LLC is well
 4 within the scope of the examination permitted pursuant to Bankruptcy Rule 2004, which
 5 includes:

6 [A]cts, conduct, or property or . . . the liabilities and financial condition of
 7 the debtor, or . . . any matter which may affect the administration of the
 8 debtor's estate, or to the debtor's right to a discharge. In a . . .
 9 reorganization case under chapter 11 of the Code, . . . the examination
 10 may also relate to the operation of any business and the desirability of its
 11 continuance, the source of any money or property acquired or to be
 12 acquired by the debtor for purposes of consummating a plan and the
 13 consideration given or offered therefore, and any other matter relevant to
 14 the case or to the formulation of a plan.

15 Fed.R.Bankr.P. 2004(b).

16 Bankruptcy Rule 2004(a) provides that “[o]n motion of any party in interest, the court
 17 may order the examination of any entity.” Rule 2004 of the Local Rules of Bankruptcy
 18 Procedure (hereinafter, the “Local Rules”) provides, in pertinent part:

19 (b) Order for examination. Orders for examination may be signed by
 20 the clerk if the date set for examination is more than ten (10) business days
 21 from the date such motion is filed....

22 LR 2004(b).

23 As required by the Local Rules, the date for the proposed examination is more than ten
 24 (10) business days from the date of this Motion.

25 CONCLUSION.

26 Accordingly, Diversified and the Diversified Committee respectfully request that the
 27 Clerk of the Court docket the form of Order submitted herewith requiring the Custodian of
 28 Records for BySynergy, LLC, to testify under oath on the matters outlined above and requiring
 that the Custodian of Records for BySynergy, LLC, under Rule 30(b)(6) of the Federal Rules of

29 ///

30 ///

1 Civil Procedure, be required to appear on February 16, 2007, at 9:00 o'clock a.m. Mountain
2 Standard Time at the Residence Inn By Marriott, 3440 North Country Club Dr., Flagstaff,
3 Arizona 86004.

4 Respectfully submitted this 18th day of January 2007.

5 BECKLEY SINGLETON, CHTD.

6 /s/ Anne M. Loraditch

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16 Trust Deed Fund, LLC*

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